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Tim Neil

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EXAMINER

JOO, JOSHUA

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,621	Applicant(s) NEIL ET AL.	
	Examiner JOSHUA JOO	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

This Office action is in response to Applicant's communication filed on 03/10/2009.

Claims 1-26 are pending for examination.

Response to Arguments

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Specification

The disclosure is objected to because of the following informalities:

37 CFR 1.74 states,

When there are drawings, there shall be a brief description of the several views of the drawings and the detailed description of the invention shall refer to the different views by specifying the numbers of the figures, and to the different parts by use of reference letters or numerals (preferably the latter).

1) While the specification provides a brief description of figs. 20A-20LLL, the detailed description does not refer to the figures figs. 20A-20LLL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-4, 6, 8-12, 14, 16-20, 22, 24-25, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Hofmeister et al. US Publication #2005/0154759 (Hofmeister hereinafter).

As per claim 1, Hofmeister teaches the invention as claimed including a method of facilitating wireless communication device awareness of the availability of new or updated server-side applications, said method comprising:

in response to either of a new application being made available at a server or an updated version of an application being made available at a server, transmitting a message over a wireless connection to a set of wireless communications devices indicating that said new or updated application is available (Paragraphs 0035-0036. In response to an upgrade being available, notify one or more mobile devices of an available application.).

As per claim 9, Hofmeister teaches the invention as claimed including a server comprising a processor and memory in communication with said processor storing machine-executable code adapting said server to:

in response to either of a new application being made available at said server or an updated version of an application being made available at said server, transmit a message over a wireless connection to a set of wireless communications devices indicating that said new or updated application is available (Paragraphs 0035-0036. In response to an upgrade being available, notify one or more mobile devices of an available application.).

As per claim 17, Hofmeister teaches the invention as claimed including a machine-readable medium storing machine-executable code for execution, which upon execution by a processor of a computing device, causes said device to:

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in response to either of a new application being made available at a server or an updated version of an application being made available at a server, transmitting a message over a wireless connection to a set of wireless communications devices indicating that said new or updated application is available (Paragraphs 0035-0036. In response to an upgrade being available, notify one or more mobile devices of an available application.).

As per claim 2, Hofmeister teaches the method of claim 1 wherein said set of wireless communications devices is a subset of an overall set of wireless communications devices in communication with said server (Paragraph 0035. Push message for each mobile device that has downloaded the application.).

As per claim 3, Hofmeister teaches the method of claim 2 wherein said transmitting is conditional upon said new application or said updated version of an application being added to a group of applications to which access is provided as a whole (Paragraph 0029. Catalog includes currently available applications. Paragraph 0035. Push message for upgrade for application being added to the application catalog.).

As per claim 4, Hofmeister teaches the method of claim 3 wherein said transmitting to said subset of wireless communications devices is conditional upon a grant of access by said subset of wireless communications devices to said group of applications (Paragraphs 0032; 0053. Notify availability of application. The application may be downloaded. Accept application.).

As per claim 6, Hofmeister teaches the method of claim 1 wherein said transmitting is triggered automatically in response to said new application being made available at said server or said updated

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version of an application being made available at said server (Paragraph 0035. Send message in response to upgrade becoming available. Paragraph 0073. Automatically generate a push message with list of new applications.).

As per claim 8, Hofmeister teaches the method of claim 1 wherein said message includes a list of applications presently available to said set of wireless communications devices (Paragraph 0073. Generate a push message with list of available applications.).

As per claim 10, Hofmeister teaches the server of claim 9 wherein said set of wireless communications devices is a subset of an overall set of wireless communications devices in communication with said server (Paragraph 0035. Push message for each mobile device that has downloaded the application.).

As per claim 11, Hofmeister teaches the server of claim 10 wherein said transmitting is conditional upon said new application or said updated version of an application being added to a group of applications to which access is provided as a whole (Paragraph 0029. Catalog includes currently available applications. Paragraph 0035. Push message for upgrade for application being added to the application catalog.).

As per claim 12, Hofmeister teaches the server of claim 11 wherein said transmitting to said subset of wireless communications devices is conditional upon a grant of access by said subset of wireless communications devices to said group of applications (Paragraphs 0032; 0053. Notify availability of application. The application may be downloaded. Accept application.).

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As per claim 14, Hofmeister teaches the server of claim 9 wherein said transmitting is triggered automatically in response to said new application being made available at said server or said updated version of an application being made available at said server (Paragraph 0035. Send message in response to upgrade becoming available. Paragraph 0073. Automatically generate a push message with list of new applications.).

As per claim 16, Hofmeister teaches the server of claim 9 wherein said message includes a list of applications presently available to said set of wireless communications devices (Paragraph 0073. Generate a push message with list of available applications.).

As per claim 18, Hofmeister teaches the machine-readable medium of claim 17 wherein said set of wireless communications devices is a subset of an overall set of wireless communications devices in communication with said server (Paragraph 0035. Push message for each mobile device that has downloaded the application.).

As per claim 19, Hofmeister teaches the machine-readable medium of claim 18 wherein said transmitting is conditional upon said new application or said updated version of an application being added to a group of applications to which access is provided as a whole (Paragraph 0029. Catalog includes currently available applications. Paragraph 0035. Push message for upgrade for application being added to the application catalog.).

As per claim 20, Hofmeister teaches the machine-readable medium of claim 19 wherein said transmitting to said subset of wireless communications devices is conditional upon a grant of access by

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said subset of wireless communications devices to said group of applications (Paragraphs 0032; 0053.

Notify availability of application. The application may be downloaded. Accept application.).

As per claim 22, Hofmeister teaches the machine-readable medium of claim 17 wherein said transmitting is triggered automatically in response to said new application being made available at said server or said updated version of an application being made available at said server (Paragraph 0035. Send message in response to upgrade becoming available. Paragraph 0073. Automatically generate a push message with list of new applications.).

As per claim 24, Hofmeister teaches the machine-readable medium of claim 17 wherein said message includes a list of applications presently available to said set of wireless communications devices (Paragraph 0073. Generate a push message with list of available applications.).

As per claim 25, Hofmeister teaches the method of claim 2 wherein said set of wireless communication devices is associated with a group of applications and said transmitting is conditional upon said new application or said updated version of an application being added to said group of applications (Paragraph 0035. Send message in response to upgrade becoming available. Paragraph 0073. Automatically generate a push message with list of new applications.).

As per claim 26, Hofmeister teaches the machine-readable medium of claim 17 wherein said computing device is said server (Paragraphs 0039; 0049. Server computer.).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7, 13, 15, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmeister, in view of Mayer, US Publication #2005/0055687 (Mayer hereinafter).

As per claim 5, Hofmeister does not specifically teach the method of claim 1 wherein said transmitting is dependent upon receipt of an indication from a human operator in response to said new application being made available at said server or said updated version of an application being made available at said server.

Mayer teaches a similar invention for transmitting notifications when updated applications is available, wherein transmitting is dependent upon receipt of an indication from a human operator in response to said updated version of an application being made available at said server (Paragraphs 0008; 0010).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the transmitting to be dependent upon receipt of an indication from a human operator in response to said new application being made available at said server or said updated version of an application being made available at said server. The motivation for the suggested combination is that Mayer's teachings would improve Hofmeister's teachings by enabling a user to control reception of notifications by subscribing to the notifications and enabling generic notification of updates of different applications.

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As per claim 7, Hofmeister does not specifically teach the method of claim 1 wherein said message is an eXtenstible Markup Language (XML) message.

Mayer teaches a similar invention for transmitting a message when updated applications is available, wherein said message is an eXtenstible Markup Language (XML) message (Paragraph 0007).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to be an XML message. The motivation for the suggested combination is that Mayer's teachings would improve Hofmeister's teachings by providing the message in a common format that may be understood by different devices and applications. Furthermore, Mayer's teachings would enable generic notification of updates of different applications (Paragraphs 0011-0012).

As per claim 13, Hofmeister does not specifically teach the server of claim 9 wherein said transmitting is dependent upon receipt of an indication from a human operator in response to said new application being made available at said server or said updated version of an application being made available at said server.

Mayer teaches a similar invention for transmitting notifications when updated applications is available, wherein transmitting is dependent upon receipt of an indication from a human operator in response to said updated version of an application being made available at said server (Paragraphs 0008; 0010).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the transmitting to be dependent upon receipt of an indication from a human operator in response to said new application being made available at said server or said updated version of an application being made available at said server. The motivation for the suggested combination is that Mayer's teachings would improve Hofmeister's teachings by enabling a user to control reception of

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notifications by subscribing to the notifications and enabling generic notification of updates of different applications.

As per claim 15, Hofmeister does not specifically teach the server of claim 9 wherein said message is an eXtensible Markup Language (XML) message.

Mayer teaches a similar invention for transmitting a message when updated applications is available, wherein said message is an eXtensible Markup Language (XML) message (Paragraph 0007).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to be an XML message. The motivation for the suggested combination is that Mayer's teachings would improve Hofmeister's teachings by providing the message in a common format that be may understood by different devices and applications. Furthermore, Mayer's teachings would enable generic notification of updates of different applications (Paragraphs 0011-0012).

As per claim 21, Hofmeister does not specifically teach the machine-readable medium of claim 17 wherein said transmitting is dependent upon receipt of an indication from a human operator in response to said new application being made available at said server or said updated version of an application being made available at said server.

Mayer teaches a similar invention for transmitting notifications when updated applications is available, wherein transmitting is dependent upon receipt of an indication from a human operator in response to said updated version of an application being made available at said server (Paragraphs 0008; 0010).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the transmitting to be dependent upon receipt of an indication from a human operator in response to said new application being made available at said server or said updated version of

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an application being made available at said server. The motivation for the suggested combination is that Mayer's teachings would improve Hofmeister's teachings by enabling a user to control reception of notifications by subscribing to the notifications and enabling generic notification of updates of different applications.

As per claim 23, Hofmeister does not specifically teach the machine-readable medium of claim 17 wherein said message is an eXtenstible Markup Language (XML) message.

Mayer teaches a similar invention for transmitting a message when updated applications is available, wherein said message is an eXtenstible Markup Language (XML) message (Paragraph 0007).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to be an XML message. The motivation for the suggested combination is that Mayer's teachings would improve Hofmeister's teachings by providing the message in a common format that may be understood by different devices and applications. Furthermore, Mayer's teachings would enable generic notification of updates of different applications (Paragraphs 0011-0012).

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- i) Sears et al. US Publication #2002/0069263 teaches of a user of a wireless device registering to receive message when updated application is available.
- ii) Peng US Publication #2001/0052052 teaches of a gateway sending a notification to a set of mobile device when undated application is available.
- iii) Herle et al. US Publication #2003/0186689 teaches of a server sending a notification identifying a new software update to a wireless device.
- iv) O'Neill et al. US Publication #2004/0068721 teaches of a server sending a notification identifying a new software update to a wireless device.

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- v) Peev et al. US Publication #2003/0121033 teaches of a server sending a notification identifying a new software, e.g. new application or update, to a wireless device.

A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Thursday 8AM to 5PM and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./
Examiner, Art Unit 2454

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2454